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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,743	01/13/2004	Alvaro Mauricio Olarte	03719-P0002A	1847
24126	7590	03/07/2006	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC			NELSON JR, MILTON	
986 BEDFORD STREET			ART UNIT	
STAMFORD, CT 06905-5619			PAPER NUMBER	
			3636	
DATE MAILED: 03/07/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/756,743

Applicant(s)

OLARTE, ALVARO MAURICIO

Examiner

Milton Nelson, Jr.

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) 35-58 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18,20,24,25,27,30,31,33 and 34 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 14, 15, 17, 19, 21-23, 26, 28, 29, 32, 59-77 is/are rejected.
- 7) ☒ Claim(s) 3-13 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

The objection to the abstract of the disclosure has been overcome by Applicant's amendment.

The objection to the disclosure has been overcome by Applicant's amendment.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 26, 28, 29, 32 and 59-77 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with indefinite language. Line 4 of claim 26 is grammatically vague. Note the recitation "at least on of the beams". In claim 28, "the plurality of seat back assemblies" lacks proper antecedent basis. In claim 29, "the width" lacks proper antecedent basis. In claim 29, "the plurality of seat back assemblies" lacks proper antecedent basis. In claim 32, the recitation "said plurality of seat connection mechanism" is grammatically vague. In line 10 of claim 59, "the beam assembly" lacks proper antecedent basis. In line 2 of claim

Art Unit: 3636

60, it is unclear if "a beam assembly" is intended to be the same structure as the previously set forth "beam assembly". In line 4 of claim 62, the recitation "at least on of the beams" is grammatically vague. Claims 61 and 63-77 are indefinite since each depends from an indefinite claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 15, 17 and 21, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 102(b) as being anticipated by Duke (1662378). Note the beam (20), base (7, 8), seat connection mechanisms (18, 19), seat bottom assemblies (members 17 form these), beam assembly (20, 21), other beam (21), plurality of bases (see Figure 1), wherein the number of bases is less than the number of seat bottom assemblies (see Figure 1), and an end (note endmost members 7, 8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

Art Unit: 3636

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duke (1662378) in view of Padovano (3785600). Duke shows all claimed features of the instant invention with the exception of the at least one base being fastened in place. Note the discussion of Duke above. Padovano conventionally teaches providing a seating assembly base (9) as fastened in place. Note that the base is fastened at least in place to the floor (3), as shown in Figure 3, and to the beam (7). It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by conventionally fastening the base in place in order to enhance structural stability and user safety.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duke (1662378) in view of Day (3850476). Duke shows all claimed features of the instant invention with the exception of the seat connection mechanisms being configured such that the seat bottom assemblies are gravity lifted. Note the discussion of Duke above. Day conventionally teaches providing a seating assembly with a seat connection mechanism being configured such that the seat bottom assembly is gravity lifted. Note the counterweight (24) added to a portion (16) of the connection mechanism. It can be realized that gravity acts on the counterweight in order to lift the seat bottom. It would have been obvious to one having ordinary skill in the pertinent art at the time of the

Art Unit: 3636

instant invention to modify the primary reference in view of the teachings of Day by conventionally adding a counterweight to the connection mechanisms so that the seat bottoms can be gravity lifted. This provides automatic lifting of the seat bottom when the seat bottom is unoccupied.

Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duke (1662378) in view of Infanti (6135562). Duke shows all claimed features of the instant invention with the exception of the plurality of seat bottom assemblies further comprising removable seat covers (claim 22); and the plurality of seat back assemblies further comprising removable back pads (claim 23). Note the discussion of Duke above. The secondary reference conventionally teaches providing a seating assembly with a seat bottom assembly comprising a removable seat cover (57); and a seat back assembly comprising a removable back pad (63). It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by conventionally providing the plurality of seat bottom assemblies with removable seat covers (claim 22); and providing the plurality of seat back assemblies with removable back pads (claim 23). Such enhances aesthetic appeal and user comfort.

Allowable Subject Matter

Art Unit: 3636

Claims 3-13 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 18, 20, 24, 25, 27, 30, 31, 33 and 34 are allowed.

Claims 26, 28, 29, 32 and 60-77 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 59 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Amendment/Arguments

Applicant's response filed December 23, 2005 has been fully considered. Remaining issues are described in the above sections. Regarding the rejection of claims 1, 2, 15, 17 and 21 based on Duke, Applicant argues that the prior art does not disclose at least one seat back assembly fixedly secured to the beam. It can be seen in Figures 1 and 2 of Duke that part 14 of the seat back assembly is secured by way of the connecting means 7 to the beam. The seating device of Duke is a unitary structure. Each part of the unitary structure is secured either directly or indirectly to every other part of the unitary structure. This is realized by moving the unitary structure from one

location to another, wherein the parts don't fall away from one another. The parts of the unitary structure are moved when the location is changed. Applicant further argues that Duke lacks a plurality of seat connection mechanisms secured to the beam, each comprising a connector support extending forward from the beam in a substantially horizontal position. In Figures 1 and 2 of Duke, it can be seen that the connector supports (18) of the seat connection mechanisms extend forwardly from the beam (20) in a substantially horizontal position.

Rejections under 35 USC 103 have been withdrawn upon reconsideration of the claims and prior art. Remaining rejections under 35 USC 103 are described above.

Election/Restriction

Claims 35-58 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention or embodiment of the invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 5, 2005. Non-elected claim 16 has been treated on the merits since it depends from a claim found to include allowable subject matter.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

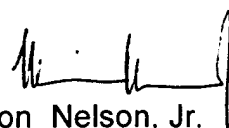
Art Unit: 3636

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (571) 272-6861. The examiner can normally be reached on Monday-Wednesday, and alternate Fridays, 5:30-3:00.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Milton Nelson, Jr.
Primary Examiner
Art Unit 3636

Application/Control Number: 10/756,743

Page 9

Art Unit: 3636

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March 6, 2006